

Remarks

Claims 1, 7-16, 19-21, 30-33, 48 and 54 were pending. Claims 14, 16-20, and 30-33 are cancelled without prejudice to prosecution in another application. No new claims are added. Claims 15 and 21 are amended. Therefore, claims 1, 7-13, 15, 21, 48 and 54 are now pending.

Summary of Telephone Interview

Applicants thank Examiner Strzelecka for the telephone interview with Applicants' representative Sheree Lynn Rybak, Ph.D. on November 24, 2003. During this interview, Applicants' representative explained that the Chatthai thesis was cataloged in May 2000, and therefore was not available as 35 U.S.C. § 102(b) prior art. In addition, Applicants' representative explained that Chatthai would be added as an inventor. In order to expedite prosecution, Applicants' representative agreed to cancel claims 14, 16-20, and 30-33, and to amend claim 15 to clarify that the host cell is a Douglas-fir host cell. Examiner Strzelecka agreed that such an amendment would put the application in condition for allowance.

35 U.S.C. § 112, first paragraph

Claims 1, 7-16, 19-21, 30-32, 48, and 54 were rejected under 35 U.S.C. § 112, first paragraph, on the ground that those claims contain subject matter not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicants respectfully disagree. However, in order to expedite prosecution, claims 14, 16-20, and 30-33 are cancelled, and claim 15 is amended to clarify that the host cell is a Douglas-fir host cell. Therefore, Applicants request that the 35 U.S.C. § 112, first paragraph rejection be withdrawn.

35 U.S.C. § 102(b)

Claims 1, 7-12, 14-16, 19-21, 30, 33, 48, and 54 were rejected under 35 U.S.C. § 102(b) as anticipated by Chatthai (Ph.D Dissertation, University of Victoria). Applicants respectfully disagree and request reconsideration. Applicants' representative Sheree Lynn Rybak, Ph.D. spoke with Joanne Henning at the University of Victoria library (250-721-8268) on November 10, 2003. Ms. Henning informed Applicants' representative that the Chatthai thesis (Call

Number SD397 D7C48) was not cataloged until May 17, 2000. A thesis is not considered a printed publication unless it is indexed, cataloged, and shelved before the critical date (M.P.E.P § 2128.01). Because the thesis was not cataloged more than one year prior to the filing date of the present application (filed August 18, 2000), is not available as prior art against the present application.

Therefore, Applicants request that the 35 U.S.C. § 102(b) rejection be withdrawn. If further documentation as to the catalog date of the thesis is needed, please contact Applicants' representative Sheree Lynn Rybak, Ph.D. at the number below.

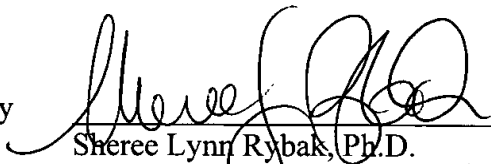
35 U.S.C. § 102(f)

Claims 1, 7-12, 14-16, 19-21, 30, 33, 48, and 54 were rejected under 35 U.S.C. § 102(f) on the ground that Chatthai is an inventor. Applicants agree that Chatthai is an inventor, and have therefore filed a Petition to Correct Inventorship under 37 C.F.R. § 1.48(a). A copy of the petition transmittal is enclosed. In view of the addition of Chatthai as an inventor, Applicants request that the 35 U.S.C. § 102(f) rejection be withdrawn.

If any matters remain before a notice of allowance is issued, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By 
Sheree Lynn Rybak, Ph.D.
Registration No. 47,913

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 226-7391
Facsimile: (503) 228-9446